

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

RONNIE TOWNSEND, #121142,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACT. NO. 2:06-CV-564-MHT
	)	
LT. COPELAND, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Based on the court's further review of the file in the case, the court concludes that it cannot determine the date of filing of the complaint in this under the law applicable to inmate filings. *See Houston v. Lack*, 487 U.S. 266, 271-272 (1988); *Garvey v. Vaughn*, 993 F.2d 776, 781 (11th Cir. 1993). Accordingly, it is

ORDERED that an evidentiary hearing limited to the issue of the date on which the plaintiff delivered the complaint to correctional officials for mailing be and is hereby set on February 20, 2007, at 9:00 a.m. in Courtroom 4B, United States Courthouse Complex, One Church Street, Montgomery, Alabama. It is further

ORDERED as follows:

1. Witnesses.

(a) All parties shall file a witness list at least twenty (20) days before the hearing. Witnesses not on the list will not be heard.

(b) Cases Proceeding In Forma Pauperis. If the plaintiff desires to procure

the attendance of witnesses by writ or subpoena, he shall file and serve -- not later than twenty (20) days before the hearing-- a witness list containing the names and addresses of all witnesses -- whether a subpoena is sought or not -- (inmate or civilian status) and a brief statement of the expected testimony of each witness, whether his subpoena is sought or not. The plaintiff should be specific in stating the expected testimony, because if the testimony is not material or is simply repetitive the court may in its discretion decline to order the subpoena of the witness. See Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975).

You should be aware that whether the witness is subpoenaed by a pauper or not, Rule 45(c) requires that your subpoena must be accompanied by a witness fee (\$40 per day), a subsistence fee (\$99 per day) if overnight stay is required, and mileage (at 44.5 cents per mile each way), or it need not be obeyed. The witness will be so informed by the subpoena. It is the responsibility of the subpoenaing party to provide that money to the clerk's office for tender with the subpoena.

2. The persons having custody of the plaintiff shall produce the plaintiff for this hearing in this case.

Done this 17<sup>th</sup> day of January, 2007.

/s/Charles S. Coody  
CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE